UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/958,088	10/27/1997	JOHN S. HENDRICKS	5062	2949

56015 7590 11/17/2005	EXAMINER
MOSER, PATTERSON & SHERIDAN, LLP/	KOENIG, ANDREW Y
SEDNA PATENT SERVICES, LLC	

ART UNIT	PAPER NUMBER
2611	

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SHREWSBURY, NJ 07702

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10 March 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *31,47-49 and 67-79* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *31,47-49 and 67-79* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/20/03</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 31, 47-49, and 67-79 have been

considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3.   Claim 73 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply

with the written description requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor(s), at the time the application was filed, had

possession of the claimed invention.

The specification as originally filed fails to support instructions comprising

"identities of the unwanted digital programs or channels whereby the removing step

uses the generated instructions to remote the unwanted digital programs or channels"

as recited in claim 73. Whereas it is recognized that the specification supports filtering

out unwanted programs, however the specification is silent on how the filtering occurs

as claimed.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   Claim 31 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent

5,357,276 to Banker et al. (Banker).

Regarding claim 31, Banker teaches a cable headend for distributing video

signals and instructions (as shown in figure 1), and teaches a signal processors

comprising the satellite receiver (18), data controllers (20), modulators (24, 30) and

scramblers (26, 28), wherein the signal processor processes video signals. Banker

further teaches a satellite receiver for receiving a plurality of video channels (col. 3, ll.

46-49), wherein the satellite receiver decodes and demodulates the received channel

into a number of channels (col. 3, ll. 46-49), which equates to selecting video signals

from the plurality of video signals, and Banker teaches a frequency combiner for

combining the selected video signals for distribution (col. 3, ll. 58-61). Banker teaches a

cable headend with a headend controller (fig. 1, label 22). Banker teaches a system

manager (fig. 1, label 12) controlling operations of the headend controller and the set

top terminals (col. 3, ll. 40-45), which equates to a network controller for controller the

operations of the signal processor and set top terminals. Banker teaches reverse

communication using BPSK or a modem (col. 4, ll. 45-50), which equates to a means

for obtaining communication from the set top terminals. Banker teaches an IPPV

processor (fig. 1, label 14) for generating instructions to the signal processor for

selecting video signals (col. 4, ll. 45-57), which equates to a computer processor for

generating instructions to the signal processing. Banker teaches distributing the

combined signals to the set top terminals by coaxial or optical cable distribution systems

(col. 3, ll. 38-40).

6.   Claims 47, 48, 67-72, and 74-79 are rejected under 35 U.S.C. 102(e) as being

anticipated by U.S. Patent 5,400,401 to Wasilewski et al. (Wasilewski).

Regarding claim 47, Wasilewski teaches a control microprocessor and VCM

interpreter (fig. 16, label 338, 348) which manages, monitors, ensured that the desired

programs are selected and send instructions (col. 20, ll. 27-32, col. 21, ll. 18-36).

Wasilewski teaches a service extract/demux (fig. 16, label 344), which receives signals,

and performs selections according the CPU instructions and outputs the selected

programs (col. 21, ll. 36-57). Wasilewski teaches a multiplexer, which equates to a

combiner accepting the selected programs and providing a combined signal for

transmission according to instructions sent from the CPU to the service demultiplexer to

combine the signals (col. 22, ll. 24-27). Further, Wasilewski teaches the CPU managing

and monitoring the demultiplexer and combiner by sending data to the system.

Regarding claim 48, Wasilewski teaches the demultiplexer separating the

multiplexed signals into individual programs (col. 22, ll. 13-23).

Regarding claim 67, Wasilewski teaches receiving information and one or more

multiplexed signals containing a plurality of programs, wherein the information includes

data on identities of desired digital programs (col. 21, ll. 18-36, see also figure 17, col.

22, ll. 14-24). Wasilewski teaches generating instructions regarding the programs,

wherein instructions are generated using the received information, in that the VCM

interpreter identifies service IDs (col. 21, ll. 18-36), wherein the service Wasilewski

teaches the extracting and demultiplexing which selects the programs using the

instructions, wherein the selected channel is a subset of the plurality of programs (fig.

16, label 344, col. 22, ll. 13-23). As shown in figure 17, Wasilewski teaches a

multiplexer, which equates to a combiner accepting the selected programs and

providing a combined signal for transmission according to instructions sent from the

CPU to the service demultiplexer to combine the signals (col. 22, ll. 24-27).

Regarding claim 68, Wasilewski teaches the demultiplexer separating the

multiplexed signals into individual programs (col. 22, ll. 13-23).

Regarding claim 69, Wasilewski teaches a inserting one or more local programs

and outputting the programs to the combiner, wherein the combiner outputs local

programs with the selected programs (col. 22, ll. 27-30).

Regarding claim 70, Wasilewski teaches receiving information and one or more

multiplexed signals containing a plurality of programs, wherein the information includes

data on identities of desired digital programs (col. 21, ll. 18-36, see also figure 17, col.

22, ll. 14-24). Wasilewski teaches generating instructions regarding the programs,

wherein instructions are generated using the received information, in that the VCM

interpreter identifies service IDs (col. 21, ll. 18-36), wherein the service Wasilewski

teaches the extracting and demultiplexing which selects the programs using the

instructions, wherein the selected channel is a subset of the plurality of programs (fig.

16, label 344, col. 22, ll. 13-23), the examiner notes that by actively selecting programs,

the system is removing unwanted programs. As shown in figure 17, Wasilewski

teaches a multiplexer, which equates to a combiner accepting the selected programs

and providing a combined signal for transmission according to instructions sent from the

CPU to the service demultiplexer to combine the signals (col. 22, ll. 24-27).

Regarding claim 71, Wasilewski teaches the demultiplexer separating the

multiplexed signals into individual programs (col. 22, ll. 13-23).

Regarding claim 72, Wasilewski receiving a multiplexed signal from a satellite, as

shown in figure 17, which as described in relation to the virtual channel maps and

selecting the appropriate channels (col. 21, ll. 19-37).

Regarding claim 74, Wasilewski teaches receiving information and one or more

multiplexed signals containing a plurality of programs, wherein the information includes

data on identities of desired digital programs (col. 21, ll. 18-36, see also figure 17, col.

22, ll. 14-24). Wasilewski teaches generating instructions regarding the programs,

wherein instructions are generated using the received information, in that the VCM

interpreter identifies service IDs (col. 21, ll. 18-36), wherein the service Wasilewski

teaches the extracting and demultiplexing which selects the programs using the

instructions, wherein the selected channel is a subset of the plurality of programs (fig.

16, label 344, col. 22, ll. 13-23). As shown in figure 17, Wasilewski teaches a

multiplexer, which equates to a combiner accepting the selected programs and

providing a combined signal for transmission according to instructions sent from the

CPU to the service demultiplexer to combine the signals (col. 22, II. 24-27).

Regarding claim 75, Wasilewski teaches a multiplexer (fig. 17, label 406) for

combining the selected signals for distribution to set top terminals (col. 22, II. 26-32),

which equates to a serializer.

Regarding claim 76, Wasilewski teaches selecting using generated instructions

from the VCM interpreter (col. 21, II. 18-37).

Regarding claim 77, Wasilewski teaches receiving information and one or more

multiplexed signals containing a plurality of programs, wherein the information includes

data on identities of desired digital programs (col. 21, II. 18-36, see also figure 17, col.

22, II. 14-24). Wasilewski teaches generating instructions regarding the programs,

wherein instructions are generated using the received information, in that the VCM

interpreter identifies service IDs (col. 21, II. 18-36), wherein the service Wasilewski

teaches the extracting and demultiplexing which selects the programs using the

instructions, wherein the selected channel is a subset of the plurality of programs (fig.

16, label 344, col. 22, II. 13-23). As shown in figure 17, Wasilewski teaches a

multiplexer, which equates to a combiner accepting the selected programs and

providing a combined signal for transmission according to instructions sent from the

CPU to the service demultiplexer to combine the signals (col. 22, II. 24-27).

Regarding claim 78, Wasilewski teaches a multiplexer (fig. 17, label 406) for

combining the selected signals for distribution to set top terminals (col. 22, II. 26-32),

which equates to a serializer.

Regarding claim 79, Wasilewski teaches selecting using generated instructions

from the VCM interpreter (col. 21, ll. 18-37).

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

8.   Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent 5,400,401 to Wasilewski et al. (Wasilewski).

Regarding claim 49, Wasilewski teaches a inserting one or more local programs

and outputting the programs to the combiner, wherein the combiner outputs local

programs with the selected programs (col. 22, ll. 27-30). Wasilewski inserts local

programs but is silent on receiving one or more local programs. Official Notice is taken

receiving one or more local programs are well known in the art, such as receiving local

commercials/advertisements and broadcasts. Therefore, it would have been obvious to

one of ordinary skill in the art at the time the invention was made to modify Wasilewski

by receiving one or more local programs in order to provide programming targeted to a

regional area thereby enhancing and targeting information to regional viewers.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Andrew Y. Koenig whose telephone number is (571)

272-7296. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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Business Center (EBC) at 866-217-9197 (toll-free).

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